#### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

CARL ALEXANDER COHEN,

Plaintiff,

v.

BOSTON SCIENTIFIC CORPORATION, REPUBLIC SURGICAL, INC., MEDWORX, INC., ALEXANDRE R. MOUCHATI AND DOES 1-20, INCLUSIVE, AND JOHN DOE ENTITIES 11-20 INCLUSIVE,

Docket No. 1:20-CV-00943

Defendants.

# DEFENDANT ALEX MOUCHATI'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF

The defendant, Alex Mouchati., pursuant to Rule 35 of the New Hampshire Federal Court, requests that the plaintiff, Carl Alexander Cohen, produce the documents listed below for inspection and copying.

#### **DEFINITIONS**

As used herein, the word "document" or "documents" includes, without limitation, any X-rays and other films or radiographs, original, and all copies, of any writings, memoranda, photographs, tapes or other sound or video recordings, contracts, agreements, invoices, checks, statements, receipts, letters, notes, telephone logs, diaries, calendar entries, telegrams, telexes, or other forms of communication or correspondence, books, catalogs, pamphlets, periodicals, lists, brochures, reports, minutes, books or records of account, schedules, tax returns, computer printouts, tapes or memories, photostats, microfilm, or other written information, in whatever form, which is in the custody or possession or under the control of the plaintiff.

"Incident" or "accident," as used herein, shall refer to the accident alleged in the plaintiff's complaint.

"Statement" means any document or tape recording that constitutes, or refers to, a discussion, conversation, declaration, or description of the accident or its consequences.

If the plaintiff withholds documents requested herein under any claim of privilege or work-product immunity, a request is hereby made to list and sufficiently identify the documents so that they may be appropriately described in a motion to compel their production

#### REQUESTS

- 1. All reports, memoranda, notices, letters and any other correspondence at any time during the period from the date of the alleged incident to date, in any way concerning or related to any of the events, occurrences and allegations contained in your Complaint between you, your agents, servants, employees or attorneys, and:
- (a) the defendant, his agents, servants, employees or attorneys;
- (b) any governmental or municipal entity or agency thereof; and
- (c) any insurance company or companies providing insurance to you for any portion of the loss sustained by you as a result of the incident alleged in the Complaint, and the agents, servants, employees or attorneys of said insurance company or companies.
- 2. All reports, statements, memoranda, notices, documents and all other papers or documents maintained by you and/or in your possession or in the possession of your agents, servants, employees or attorneys, in any way concerning or related to any of the events, occurrences and allegations in your Complaint.
- 3. The original or a copy of the full and complete policy or policies of insurance, including declarations page, jackets, riders and endorsements, naming or including you as insured, which was in effect at any time during the period from the date of the alleged incident to date and under which you individually or as administrator have received, or have made claim for, any payment on account of, or as a result of, the incident alleged in your Complaint.
- 4. Originals or copies of all bills, invoices, estimates or statements, paid or unpaid, rendered to you, your agents, servants, employees or attorneys, by any person or entity on account of the damages and expenses allegedly sustained and incurred by you as a result of the events and occurrences alleged in the Complaint.
- 5. True and complete copies of the Federal Income Tax Returns for the years 2013 through present.
- 6. All books, documents or other records showing your income from any source for the years set forth in paragraph 5.
- 7. All copies of W-2 or other forms transmitted to you by all employers of or by other persons or entities and reflecting payments made for the years set forth in paragraph 5.
- 8. Originals or copies of all bills, invoices, estimates or statements, paid or unpaid, rendered to you, your agents, servants, employees or attorneys, for charges of physicians, surgeons, therapists, hospitals, sanitaria, x-ray laboratories or other institutions for services rendered or appliances furnished to you as a result of the incident alleged in the Complaint.

- 9. All medical records, surgical records, x-ray reports, x-ray films, MRIs, MRI reports, slides, mental health records, writings, notes or other memoranda relating in any way at all to any physical, medical or mental health conditions, illnesses or disabilities including but not limited to those of doctors, nurses, practitioners, hospitals, clinics, institutions or other health care providers or insurers, without regard to whether it is your contention that any such physical, medical or mental health conditions, illnesses or disabilities were caused in any way by the defendant or by any agent, servant or employee of the defendant from 2000 to the present.
- 10. All of your employment and work records including but not limited to the names and addresses of all employers, the records of the dates lost from work for any reason whatsoever, and the employment income lost during the period of time commencing five years before the date of the incident alleged in the Complaint.
- 11. Originals or copies of any writings or statements, signed or unsigned, or transcribed concerning this action, its subject matter, or any of the events and occurrences alleged in the Complaint previously made by:
- (a) the defendant, his agents, servants, employees or attorneys; and
- (b) any insurance company or companies providing insurance to you for any portion of the loss sustained by you as a result of the incident alleged in the Complaint, and the agents, servants, employees or attorneys of said insurance company or companies.
- 12. All notes, memoranda and all other written records made or received by the plaintiff, his agents, servants or employees, concerning any meeting or meetings, telephone conversation or conversations that occurred during the period from the date of the alleged incident referred to in your Complaint to date, between the plaintiff, his agents, servants or employees, and the defendant, his agents, servants, employees or attorneys.
- 13. All photographs of any condition caused or treated by defendant.
- 14. Duly executed authorizations for medical records from any and all hospitals, doctors, nurses, or other practitioners by whom the Plaintiff was examined or treated for injuries sustained in the accident alleged in the complaint (authorizations attached).
- 15. Duly executed authorizations for wage and salary information from your employer at the time of this accident (authorization attached).
- 16. The product of any component that are the subject of the plaintiff's complaint.

Respectfully submitted,

The Defendant,

By Its Attorneys,

MORRISON MAHONEY LLP

Bv

William Joseph Flanagan, #17287

jflanagan@morrisonmahoney.com

250 Summer Street

Boston, MA 02210-1181 Phone: 617-439-7500

Fax:

617-342-4887

#### **CERTIFICATE OF SERVICE**

I, William Joseph Flanagan, attorney for the defendants, hereby certify that I have this day served the foregoing **Defendant's First Request for Production of Documents to Plaintiff** to all counsel of record in this action by mailing same, by first class mail, postage prepaid to:

Benjamin R. Novotny, Esq. Trial Lawyers for Justice 421 W. Water Street, 3<sup>rd</sup> Floor Decorah, IA 52101

Alfred TR. Catalfo, III, Esq. Catalfo Law, PLLC 466 Central Avenue, Suite 2 PO Box 869 Dover, NH 03821

Anne Dieruf, Esq. Jordan Herington & Rowley 5445 DTC Parkway, Suite 1000 Greenwood Village, CO 80111

Emily D. Steeb, Esq. Michael J. Carroll, Esq. Faegre Drinker Biddle & Reath 311 S. Wacker Drive, Suite 4300 Chicago, IL 60606

Lauren Pritchard, Esq. Edward J. Sackman, Esq. Bernstein Shur P.A. 670 N. Commercial Street PO Box 1120 Manchester, NH 03105

Dated: 1/25/21

Attorney: William Joseph Flanagan

### **AUTHORIZATION FOR WAGE AND SALARY INFORMATION**

This authorization or photocopy thereof will authorize you to furnish to the law firm of Morrison Mahoney LLP all information you may have regarding any employment and any wages or salary or days worked while employed by you.

| Date:       | Signature:      |                      |
|-------------|-----------------|----------------------|
|             | Name:           | Carl Alexander Cohen |
|             | Address:        |                      |
|             |                 |                      |
|             |                 |                      |
|             | Social Security |                      |
| <u>(ii)</u> | No.:            |                      |

## AUTHORIZATION TO USE OR DISCLOSE PROTECTED HEALTH INFORMATION PURSUANT TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

| 1.        | I hereby authorize  |  | (1) to use or disclose the following protected  |                                  |  |  |  |
|-----------|---|--|---|----------------------------------|--|--|--|
|           |   | Name of hospital/physician   |   | G.                               |  |  |  |
|           | health information from the medical records of the patient listed below, and (2) to answer at a deposition or trial any questions   |  |   |                                  |  |  |  |
|           | pertaining to such information. I understand that information used or disclosed pursuant to this authorization could be subject   |  |   |                                  |  |  |  |
|           | to re-disclosure by the recipient(s   | s) and, if so, may not be subject to   | federal or state laws protecti  | ng its confidentiality.          |  |  |  |
| 2.        | Patient's Name: Carl A  | lexander Cohen   | Da  | te of Birth:                     |  |  |  |
|           | Address:  |  |   |                                  |  |  |  |
| 2         | (Street, City, State, Zip)  | ha fallowing individuals   |   |                                  |  |  |  |
| 3.        | Information to be disclosed to the following individuals:  INSERT ATTORNEY NAMES OR OTHER PARTIES WHO WILL BE PRIVY TO MEDICAL RECORDS  |  |   |                                  |  |  |  |
|           | Name & Address  | ERTARTES WITO WIELDET KITT   |   |                                  |  |  |  |
|           | William Joseph Flanagan   |  |   |                                  |  |  |  |
|           | Morrison Mahoney LLP  | 20112  |   |                                  |  |  |  |
|           | 250 Summer Street, Boston, MA   | 02110  |   |                                  |  |  |  |
| 4.        | _   | 015  | to Present  |                                  |  |  |  |
| 5.        | Records Sought (includes any d  | Records Sought (includes any documents relating to the following, including those related to treatment and referral):  |   |                                  |  |  |  |
|           | X Complete Records (Includes a  | Ill categories on this page)   |   |                                  |  |  |  |
|           | Outpatient Reports  | Consultations  | Physical Therapy  | Abstracts                        |  |  |  |
|           | Discharge Summary   | Emergency Reports  | Face Sheets   | X-Rays                           |  |  |  |
|           | HIV/AIDS  | Laboratory Documents   | Physical History  | Pathology Reports                |  |  |  |
|           | Social Worker   | Psychotherapy (Notes+)   | Childbirth  | Sexual Assault                   |  |  |  |
|           | Genetic Testing   | Domestic Violence  | Other: Specify  |                                  |  |  |  |
|           | Blood Alcohol   | Venereal Disease   |   |                                  |  |  |  |
|           | Drug/Alcohol Diagnosis (Typ   | be and amount of information to be dis   | sclosed (required by federal law)   | ):                               |  |  |  |
| _         | The share information is disale   | and Courth a Callennian annual |   |                                  |  |  |  |
| 6.        | The above information is disclo   |  | named Other   |                                  |  |  |  |
| 7.        | Medical Care X Legal  | <del></del>  | rsonal Other  |                                  |  |  |  |
| <b>′·</b> | I (1) understand that if the entity receiving the information described above is not a health-care provider or affiliated with a health   |  |   |                                  |  |  |  |
|           | plan covered by federal privacy regulations, the information described above may be re-disclosed and no longer protected by these regulations or other applicable state or federal laws, (2) understand that I may revoke this authorization at any time, |  |   |                                  |  |  |  |
|           | provided that I do so in writing to the above-referenced hospital or other medical provider, except to the extent that action has   |  |   |                                  |  |  |  |
|           | been taken in reliance on this authorization or during a contestability period under applicable law, and (3) authorize disclosure   |  |   |                                  |  |  |  |
|           | of my information via mail, e-mail, telephone, the internet, or electronic facsimile.   |  |   |                                  |  |  |  |
|           | Check here  | •  |   |                                  |  |  |  |
| 8.        |   | on) This authorization expires on  |   |                                  |  |  |  |
|           | the following date, if not revoked  | earlier(Insert applicable date or event)   | December 31, 2023   |                                  |  |  |  |
| 9.        | a. Signature of Patient or  | b.   |   | Date                             |  |  |  |
| (4)       | Signature of Patient or   | Legal Representative   | L   | vate                             |  |  |  |
|           | c   | d.   |   |                                  |  |  |  |
|           | Printed Name of Pation  | ent or Patient's Legal   | Relationship of Legal Rep. to Patient or Source of Legal Rep.'s Authority to Act on Behalf of Patient (if applicable) |                                  |  |  |  |
|           | Keprese   | IMPORTANT:   | rop. 5 Authority to Act Oil   | benan of rations (if applicable) |  |  |  |
| THE       | S AUTHORIZATION SHALL BE DEED   |  | ERED ENTRIES (INCLUDING   | SUB-PARTS) ARE                   |  |  |  |

COMPLETED